

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANNAMARIE TROMBETTA,

Plaintiff,

-v-

NORB NOVOCIN, MARIE NOVOCIN, ESTATE  
AUCTIONS, INC., AND WORTHPOINT  
CORPORATION,

Defendants.

CIVIL ACTION NO.: 18 Civ. 993 (RA) (SLC)

**ORDER**

**SARAH L. CAVE**, United States Magistrate Judge:

The Court is in receipt of pro se Plaintiff Annamarie Trombetta's ("Ms. Trombetta") letters dated February 23, 2023, (ECF Nos. 376–77), and orders as follows:

- (1) Patrick Michael O'Leary ("Mr. O'Leary") shall appear for a deposition by **Tuesday, February 28, 2023**. Mr. O'Leary is not entitled to advance payment of his fee for the deposition. See Ajasin v. Ortiz, No. 19 Civ. 6814 (RA) (JLC), 2021 WL 1437551, at \*2 (S.D.N.Y. Apr. 16, 2021). As to the reasonableness of Mr. O'Leary's fee, "it is well-settled that parties seeking court intervention to determine a reasonable fee for an expert deposition should do so after the deposition, not before it has taken place." Id. at \*1. Accordingly, if the parties are unable to reach an agreement on Mr. O'Leary's fee, they may seek court intervention after the deposition has taken place. The parties should note that, "[u]nless manifest injustice would result, the court must require that the party seeking discovery . . . pay the expert a reasonable fee for time spent in responding to discovery under [the discovery rules]." Smith v. New York Presbyterian Hosp., No. 05 Civ. 7729 (RJS) (DF), 2012 WL 4903256, at \*2 (S.D.N.Y. Oct. 12, 2012) (quoting Fed. R. Civ. P. 26(b)(4)(E)(i)).

(2) By **Monday, February 27, 2023**, Defendants shall file their response to Ms. Trombetta's request that the Court re-open fact discovery.

The Clerk of Court is respectfully directed to mail a copy of this Order to Ms. Trombetta at the address below.

Dated: New York, New York  
February 24, 2023

SO ORDERED.

  
SARAH L. CAVE  
United States Magistrate Judge

Mail To: Annamarie Trombetta  
175 East 96<sup>th</sup> Street, Apt 12R  
New York, New York 10128